

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-185043

DATE: January 27, 1976

MATTER OF: Modular Ambulance Corporation;
Star-Line Enterprises, Inc.

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DIGEST:

GSA solicited and synopsised procurement of military ambulances under FSC 2320 classification (light truck) as opposed to FSC 2310 classification (ambulance) because (1) light truck chassis are used in manufacture of military ambulance vehicles and (2) 2320 classification has traditionally been used. Since record reflects that adequate competition and reasonable prices were obtained and there was no deliberate exclusion of protesting bidders, contention that they were denied opportunity to bid does not merit reprourement. (See cases cited.)

Modular Ambulance Corporation (Modular) and Star-Line Enterprises, Inc. (Star-Line), ambulance manufacturers, have protested the proposed award of a contract to any other bidder pursuant to invitation for bids (IFB) FPML-D2-A0031-A-7-21-75, issued by the General Services Administration (GSA) on June 20, 1975. The IFB was for a definite quantity of ambulance emergency medical care vehicles, for military use.

GSA reports that all firms listed on the Tape Oriented Mailing System for FSC classification 2320--light trucks--received IFB's. The light truck list was used because GSA has customarily used this list when purchasing ambulances for military use. Such ambulances are built on light truck chassis as opposed to passenger car chassis, which are used for civilian ambulances. Although GSA's List of Commodities has a separate and distinct classification for ambulances--FSC classification 2310, this classification covers only ambulances built on passenger car chassis. Additionally, GSA reports that the instant procurement was synopsised in accordance with Federal Procurement Regulations (FPR) § 1-1.1003-2 (1964 ed.), in the June 18, 1975, issue of the Commerce Business Daily, under the heading "LIGHT TRUCK."

Although Modular and Star-Line do not deny the above-related facts, they contend that GSA solicited bids under the wrong FSC classification (i.e., 2320 as opposed to 2310) and synopsised the instant procurement in the Commerce Business Daily under the wrong

heading (i.e., "Light Truck"). They further contend that since GSA was procuring ambulances, bidders on the FSC 2310 classification list (ambulances) should have been solicited. Since Modular and Star-Line were not solicited by GSA and since they allegedly could not determine from the Commerce Business Daily synopsis that GSA was procuring ambulances, they argue that they were effectively denied an opportunity to bid on the instant procurement and ask that all bids be rejected and the procurement resolicited.

For its part, GSA recognizes "* * *" that the combined failure of the List of Commodities to reference ambulances under the FSC 2320 classification, and the failure of the Commerce Business Daily synopsis to mention ambulances may have resulted in the omission of certain potential bidders from participation in this procurement." However, GSA does not feel that this justifies a resolicitation of the instant procurement.

We have long held that "* * *" inadvertent action on the part of the agency which precludes a potential supplier (even an incumbent contractor) from submitting a bid is not a compelling reason for a resolicitation so long as adequate competition and reasonable prices were obtained and there was no deliberate or conscious attempt to preclude the potential supplier from bidding." 54 Comp. Gen. 973, 974 (1975), 75-1 CPD 302, and cases cited therein.

In the instant case GSA reports that:

"* * *" both adequate competition and reasonable prices have been obtained * * *. [P]ast experience indicates that the number of bids normally received for the procurement of ambulances for the military is five. Five bids were received in response to the instant solicitation * * *. Four of those five bidders are ambulance manufacturers who have traditionally bid on GSA ambulance procurements. The prices received in response to the current solicitation were in line with offers received on prior similar procurements (taking into account an anticipated inflationary factor) and were within the Government's price estimate. Based on this information and the general procurement experience of the contracting officer, it has been determined that prices are reasonable and that adequate competition has been obtained."

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We note here that neither Modular nor Star-Line challenge GSA's position that adequate competition and reasonable prices were obtained in the instant procurement. Further, there is nothing in the record to indicate that GSA deliberately or consciously attempted to preclude either Modular or Star-Line from bidding.

Based on this record, we do not agree with the protesters' conclusion that a resolicitation is warranted. As noted above, it is uncontroverted that adequate competition and reasonable prices were obtained by GSA. Further, as previously noted, there is no indication that any possible exclusion of Modular or Star-Line was deliberate. Under these circumstances, although it is unfortunate that the protesters were apparently unaware of the instant procurement (and therefore unable to bid), our precedents clearly provide that a resolicitation is not required. B-171388, March 25, 1971; B-171090, November 10, 1970; Cf. 54 Comp. Gen. 973, supra.

However, in recognition of the fact that potential bidders may have been precluded from bidding on the instant solicitation because of the manner in which it was solicited and synopsized, GSA has indicated its intention to prevent a recurrence of these events in the future: "* * * [T]he agency is revising its lists of commodities to identify exactly the types of ambulances being procured. Until such revision is effectuated [it] will solicit bidders for ambulance procurements from both FSC 2310 and 2320 classifications * * *."

For the above-stated reasons, the protests are denied.


Deputy Comptroller General
of the United States